

REMARKS

Applicant acknowledges, with appreciation, the indication that claims 2-11, 13, 15, 17, 18 and 20-22 contain allowable subject matter, and that claims 1, 12, 14, 16 and 19 would be allowable if rewritten or amended to overcome the indefinite rejections at page 2 of the Office Action. Claims 1-24 are currently pending, with claims 1, 12, 14, 16, 19, 23 and 24 being the independent claims. Claims 1-22 have been amended. The amendments to claims 2-13, 15, 17, 18 and 20-22 clarify the wording of the claims, and are cosmetic in nature. Claims 23 and 24 have been added. No new matter has been added. Reconsideration of the application, as amended, is respectfully requested.

In the Office Action dated May 17, 2006, independent claims 1, 12, 14, 16 and 19 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Specifically, the Examiner states “[it] is not clear how there is a first active set and a second active set in the determination of a candidate set for the active set, or if the first active set and second active set are each a subset of the active set”.

With respect to the foregoing, independent claims 1, 14, 16 and 19 have been amended to recite “the active set for which the candidate cell is to be determined”. When the claimed invention is implemented, the consideration that is made is with respect to only “one of the first active set and the second active set”. That is, in every case, it is the first active set or the second active set that comes into question.

Applicant currently claims a criterion for the acceptance or removal of a cell, where the remaining cell that is used is the one that provides an identical result, even if the quality factors with which comparisons are performed are all multiplied by a scalar. Such a concept is embodied in the claim language by the first active set and the second active set, which are examples of the kinds of active sets that may be encountered pursuant to application of the claimed invention. In view of the foregoing, amended independent claims 1, 14, 16 and 19 are definite and particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Withdrawal of the rejection is therefore requested.

The Examiner has also stated “‘the active set’ [in claim 12] should be changed to ‘an active set’”. In response to this rejection, Applicant has amended the claims in a manner that is believed to address this specific rejection. Withdrawal of the rejection is therefore in order.

New independent claim 23 is directed to an apparatus claim that corresponds to the mobile station of independent claim 16. New independent claim 24 is directed to the method implemented in apparatus claim 23. Since claims 1, 12, 14, 16 and 19 were indicated to contain allowable subject matter, Applicant submits that new independent claims 23 and 24 also contain allowable subject matter.

In view of the patentability of independent claims 1, 12, 14, 16, 19, 23 and 24, for the reasons set forth above, dependent claims 2-11, 13, 15, 17, 18 and 20-22 are all patentable over the prior art.

Based on the foregoing amendments and remarks, this application is in condition for allowance. Early passage of this case to issue is respectfully requested.

Respectfully submitted,
COHEN, PONTANI, LIEBERMAN & PAVANE LLP

By 

Alphonso A. Collins
Reg. No. 43,559
551 Fifth Avenue, Suite 1210
New York, New York 10176
(212) 687-2770

Dated: August 30, 2006